

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

BRIAN TACKETT,

PLAINTIFF

V.

NO. 2:04CV312-WAP-EMB

LINDA TACKETT, ET AL.,

DEFENDANTS

REPORT AND RECOMMENDATION

Upon review of the file and record of this action, the undersigned United States Magistrate Judge finds the Complaint herein is due to be dismissed for plaintiff's failure to timely complete service of process.

Plaintiff filed his Complaint in this Court on November 2, 2004. The Complaint names as defendants Linda Tackett of Bowling Green, Kentucky; Tyrone Tackett of Hendersonville, Tennessee; Cyclone, Inc. of Bowling Green, Kentucky; Grace Transport, LLC of Portland, Tennessee; and Tytac, Inc. of Bowling Green, Kentucky. The Complaint asserts state law conversion claims and civil RICO claims against each defendant. Summonses were issued for all defendants on November 2, 2004; and returns of service for all defendants were filed on November 30, 2004. Thereafter, Plaintiff filed a motion for entry of default on December 29, 2004; and the Clerk made entry of default for all defendants the same day. By Order [doc. 18] dated April 29, 2005, this Court denied plaintiff's motion [doc. 11] for default judgments for his failure to properly serve defendants. By Order [doc. 19] dated May 18, 2005, plaintiff was directed to properly serve all defendants on or before August 10, 2005. Plaintiff was warned that his failure to serve defendants could lead to dismissal of his claims.

As of this date, plaintiff has failed to file proofs of service for defendants, and has made no application for additional time to complete service. Therefore, it is recommended that this

case be dismissed without prejudice for plaintiff's failure to complete service in accordance with FED.R.CIV.P. 4(m).

The parties are referred to Local Rule 72.2(D) for the applicable procedure in the event any party desires to file objections to the findings and recommendations herein contained. The parties are warned that any such objections are required to be in writing and must be filed within ten days of this date. Failure to timely file written objections to the proposed findings, conclusions and recommendations contained in this report will bar an aggrieved party, except upon grounds of plain error, from attacking on appeal unobjected-to proposed factual findings and legal conclusions accepted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996).

Respectfully submitted this, the 23rd day of August, 2005.

/s/ Eugene M. Bogen
U. S. MAGISTRATE JUDGE